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07/14/03

Patent
Attorney Docket: 244,610-233

1909 U.S. PTO
10/619760
07/14/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 244,610-233
First Named Inventor: BARBUT et al.
Prior Application Information:
Serial No. 09/663,292
Examiner: M. Mendez
Art Unit: 3763

Commissioner for Patents
MS Patent Application
PO Box 1450
Alexandria, VA 22313-1450

FILING UNDER 37 C.F.R. §1.53(b)

This is a request for filing for a continuation application under 37 C.F.R. §1.53(b) of pending prior application Serial No. 09/016,714, filed on January 30, 1998, which will issue as U.S. Patent No. 6,492,546 on July 15, 2003, which is a continuation of U.S. Application Serial No. 08/854,806 filed May 12, 1997, now U.S. Patent No. 6,231,544, which is a continuation-in-part of U.S. Application Serial No. 08/645,762, now abandoned, all of which are incorporated herein in their entirety, by BARBUT et al., entitled:

**AORTIC OCCLUDER WITH ASSOCIATED FILTER AND
METHODS OF USE DURING CARDIAC SURGERY**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

APPLICATION ELEMENTS ENCLOSED

57 Page(s) of Written Description
14 Page(s) of Claims
1 Page(s) of Abstract
26 Sheet(s) of Drawings ☒ formal ☐ informal
Page(s) of ☐ Declaration or ☐ Declaration and Power of Attorney
☐ Copy from prior application [37 CFR §1.63(d)]
☐ Newly executed
Other: _____

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, MS Patent Application, PO Box 1450 Alexandria, VA 22313-1450.

EV337189815US
Express Mail Label No.

July 14, 2003
Date of Deposit

Cynthia B. Pacheco
Cynthia B. Pacheco

- ☐ Assignment papers (cover sheet and documents(s))
- ☐ An Information Disclosure Statement, PTO 1449, ☐ with copies of cited items.
- ☐ Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

FEE CALCULATION

- ☐ Applicant claims small entity status under 37 C.F.R. §1.27.

BASIC FILING FEE:						\$750.00
Total Claims	1	-	20	=	0	x \$18.00 \$0.00
Independent Claims	1	-	3	=	0	x \$84.00 \$0.00
Multiple Dependent Claims	\$280	(if applicable)			<input type="checkbox"/>	\$0.00
TOTAL OF ABOVE CALCULATIONS						\$750.00
Reduction by ½ for Filing by Small Entity.						<input type="checkbox"/> \$0.00
Misc. Filing Fees (Recordation of Assignment)						\$0.00
TOTAL FEES DUE HERewith						\$750.00

PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. _____ filed on _____ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. _____ on _____.
- ☐ The certified copy will follow.

AMENDMENTS

- ☒ Cancel in this application original claims 2-77 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

RELATE BACK - 35 USC § 120

- ☐ Relate back information included in preliminary amendment or specification.
☒ Please amend the specification as follows:

This is a continuation of U.S. Application Serial No. 09/016,714, filed on January 30, 1998, which will issue as U.S. Patent No. 6,492,546, which is a continuation of U.S. Application Serial No. 08/854,806 filed May 12, 1997, now U.S. Patent No. 6,231,544, which is a continuation-in-part of U.S. Application Serial No. 08/645,762, now abandoned, all of which are incorporated herein in their entirety.

- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 C.F.R. §1.53(b)(1)]:
- ☒ the same.
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 C.F.R. §§ 1.33(b) and 1.63(d)(2)]:
- [Name(s) of inventor(s) to be deleted]

METHOD OF PAYMENT OF FEES

- ☐ Attached is a check in the amount of \$ _____.
- ☐ Charge O'Melveny & Myers's Deposit Account No. 50-0639 in the amount of _____.
- ☒ Not attached. No filing fee is submitted. [This and the surcharge required by 37 C.F.R. §1.16(e) can be paid subsequently.]

AUTHORIZATION TO CHARGE ADDITIONAL FEES

The Commissioner is hereby authorized to credit O'Melveny & Myers's Deposit Account No. 50-0639 for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. 50-0639:

- ☐ 37 CFR § 1.16 (Filing fees and excess claims fees)
- ☐ 37 CFR § 1.17 (Application processing fees)
- ☐ 37 CFR § 1.21 (Assignment recordation fees)

CORRESPONDENCE ADDRESS

Please send all correspondence to Customer Number 34263:



O'Melveny & Myers LLP
114 Pacifica, Suite 100
Irvine, CA 92618-3315
(949) 737-2900

Please direct all inquiries to John Kappos, at the above Customer Number.

MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION

- ☐ A petition, fee and response has been filed to extend the term in the pending prior application until _____. A copy of the petition for extension of time in the prior application is attached.

ABANDONMENT OF PRIOR APPLICATION

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: July 14, 2003

By: John Kappos
John Kappos, Reg. No. 37,861
Attorneys for Applicants

JCK/cp
Enclosures

Edwards Lifesciences, Inc.
Name of Assignee

One Edwards Way, Irvine, CA 92614-5688
Address of Assignee

Vice President
Title of person authorized to sign on behalf of assignee

Assignment submitted for recordation recorded in PTO on January 2, 2003.

IR1:1045605.1